



## KENTUCKY STATE BOARD OF PHYSICAL THERAPY

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Rebecca E. Klusch  
Executive Director

### MINUTES OF MEETING September 19-20, 2007

Board Members Present: Debra Turner, PT, Chair  
Ron Barbato, PT  
Troy Grubb, PT  
Kristie Cochrane, PT  
Margaret Blain, PT  
Peggy Block, PT

Board Staff: Rebecca E. Klusch, Executive Director

Board Agents: Mark Brengelman, Assistant Attorney General, Board Counsel

A meeting of the Kentucky State Board of Physical Therapy Complaint Committee was called to order at 11:00 p.m., Wednesday, September 19, 2007, at Board Office. Motion was made by Ron Barbato to go into closed session per KRS 61.810(1) (c) and (j), seconded by Debra Turner. All in favor 2/0. Motion was made by Ron Barbato to come out of closed session, seconded by Debra Turner. All in favor 2/0. The committee meeting adjourned at 1:30 p.m.

A meeting of the Kentucky State Board of Physical Therapy Complaint Committee was called to order at 1:30 p.m., Wednesday September 19, 2007, at Board Office. Motion was made by Debra Turner to go into closed session per KRS 61.810(1) (c) and (j), seconded by Troy Grubb. All in favor 2/0. Motion was made by Debra Turner to come out of closed session, seconded by Troy Grubb. All in favor 2/0. The committee meeting adjourned at 3:00 p.m.

A meeting of the Kentucky State Board of Physical Therapy was called to order by Board Chair, Debra Turner, at 9:10 a.m., Thursday, September 20, 2007, at the Board office. A quorum was present.

Motion was made by Ron Barbato, seconded by Margaret Blain to approve the minutes as amended of the August 15, 2007, Special Board Meeting. Motion carried.

### Complaint Committee

Mark Brengelman reported on *KSBPT v Dubin Orthopaedic Centre, P.S.C.*

C2006-20 Case is ongoing.

C2007-01 KSBPT v Ron Cole, PT - Hearing is scheduled for October 10-11, 2007, at the Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, KY.

C2007-06 Case is ongoing

C2007-23 The Complaint Committee recommended to the full Board upon summary of the matter, with assistance of the IPTPC and counsel, to issue a Private Admonishment for violation of KRS 327.070(2)(a). The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee members Troy Grubb and Debra Turner recused from voting.

C2007-30 Case is ongoing.

C2007-31 Cease and Desist Affidavit is pending.

C2007-33 KSBPT v Carah Dawe, P.T., *Conditional Reinstatement of License and Settlement Agreement* has been signed and previously approved by the Board.

C2007-34 Cease and Desist Affidavit is pending.

C2007-35 Case is ongoing.

C2007-36 Case is ongoing.

C2007-37 Case is ongoing

Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to approve the following eight Settlement Agreements that were signed and dated involving continued competency violations: CE2007-54 Thomas McGinnis, PTA, CE2007-55 Michael McGuirk, PTA, CE2007-71 Kevin Fitzgerald, PT, CE2007-74 Casie Hendon, PT, CE2007-77 Lawrence Humphrey, PT, CE2007-86 Karen Motimaya, PT, CE2007-89 Laura Reagan, PT, C2007-94 Ahmed Yousef, PT. The recommendation was seconded by Margaret Blain. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

CE2007-66 A motion was made by Peggy Block, seconded by Troy Grubb, to issue a Private Admonishment for failure to meet the requirement of 201 KAR 22:045 in a timely manner for this credential holder who was on active military duty under deployment during some of the period of time of the renewal cycle. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-67 A motion was made by Peggy Block, seconded by Troy Grubb, to issue a Private Admonishment for failure to meet the requirement of 201 KAR 22:045 in a timely manner for this credential holder who was on active military duty under deployment during some of the period of time of the renewal cycle. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-96 Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. The Board approved the recommendation, seconded by Troy Grubb. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-97 Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. The Board approved the

recommendation, seconded by Troy Grubb. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-98 The Complaint Committee recommended to the full Board upon summary of the matter, with assistance of counsel, to issue a Cease and Desist if a violation of KRS 327.020(3) is found. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-99 The Complaint Committee recommended to the full Board upon summary of the matter, with assistance of counsel, to issue a Cease and Desist if a violation of KRS 327.020(3) is found. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-100 The Complaint Committee recommended to the full Board upon summary of the matter, with assistance of counsel, to dismiss case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

C2007-101 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee members Debra Turner and Ron Barbato recused from voting.

### **Update on Monitoring Probations**

The Board directed the Executive Director to send a copy of the October 24, 2006, *Order of the Board* to Malton Schexneider to reiterate the conditions of his probation and the requirements to reinstate his license.

A motion made by Ron Barbato, seconded by Troy Grubb, to grant a reinstatement to Michelle McBride, PTA, after a favorable review as determined by the Executive Director and a Board member of the following items: "Evaluation Form to Assess Physical Therapist Assistant Skills" form completed by two previous employers and certified copies of the performance reviews from employer for the past three years. Motion carried.

Update on monitoring probations were given for the following with approval: Charles Buster, PTA, Bruce Taylor, PT, and Shayne Ferguson, PT.

### **Board and Administrative Business**

The Board reviewed the email from Cherie Page, PT, regarding Medicare visits and treatment units. The Board concluded that this procedure is not addressed in the laws governing the practice of physical therapy as contained in KRS Chapter 327. 201 KAR 22:053 Section 1(1) states that a physical therapist shall practice within the scope of the credential holder's training, expertise and experience. Furthermore, KRS Chapter 327 does allow the Board to take disciplinary action for violations involving the billing of physical therapy treatment.

Shannon Pardue, PT, requested clarification if school children were placed on a "consult" list, would the 90 day reassessment continue to be applicable. 201 KAR 22:053 § 4 (j) *Reassessing*

*every ninety (90) days, with the physical therapist assistant present, patients in: 2. A school system.* The Board concluded that this law does apply when a physical therapist is called in for consultation and the 90 day period has passed.

Jeff Spence, PT, wrote a letter to the Board asking if it is within the scope of practice for a physical therapist or physical therapist assistant to address patient medication alarms and restart medication fluids during the usual course of the physical therapy treatment session. Kentucky law KRS 327.010 defines the practice of physical therapy to include, in relevant part: *“The use of selected knowledge and skills in planning, organizing and directing programs for the care of individuals . . . encompassing . . . invasive or noninvasive procedures...as it relates to physical therapy.”* This service is not within the scope of the practice of physical therapy. Therefore, nothing in our law would disallow the service described above as long as the credential holder is trained and competent to do these procedures.

A motion was made by Troy Grubb, seconded by Ron Barbato, to approve a \$10,000.00 salary adjustment to the Executive Director, Becky Klusch, for exceptional, long-term service to the Board as its agency head. Agency Revenue Funds are available, and the Chair will assist in drafting correspondence to the Personnel Cabinet making the request. Motion carried.

A motion was made by Kristie Cochrane, seconded by Peggy Block, to approve the revisions of 201 KAR 22:045 regulations for Continued Competency requirements and procedures effective for the current renewal cycle. Motion carried.

#### **Other Board Matters**

Ron Barbato made a report regarding the KPTA RFP (Referral for Profit) task force.

Margaret Blain, liaison to the KPTA, made a report on KPTA Board news.

The year-to-date financial statement was deferred to next scheduled Board meeting.

Board members reviewed the lists of persons issued a temporary permit, license, certificate as well as examinees and reinstatements since the last meeting. Lists are attached to these minutes.

A motion was made by Ron Barbato, seconded by Kristie Cochrane, to adjourn the meeting at 3:00 p.m. Motion carried.

Respectfully submitted,

Rebecca E. Klusch  
Executive Director